

**PROPOSED AMENDMENTS TO
SENATE BILL 465**

1 On page 1 of the printed bill, line 3, delete “426.255,”.

2 Delete lines 6 through 31.

3 On page 2, delete lines 1 through 11 and insert:

4 **“SECTION 1.** ORS 426.133 is amended to read:

5 “426.133. (1) As used in ORS 426.005 to 426.390, ‘assisted outpatient
6 treatment’ may not be construed to be a commitment under ORS 426.130 and
7 does not include taking a person into custody or the forced medication of a
8 person.

9 “(2) A court may issue an order requiring a person to participate in as-
10 sisted outpatient treatment if the court finds that the person:

11 “(a)(A) Is 18 years of age or older;

12 “(B) Has a mental disorder;

13 “(C) Will not obtain treatment in the community voluntarily; and

14 “(D) Is unable to make an informed decision to seek or to comply with
15 voluntary treatment; and

16 “(b) As a result of being a person described in paragraph (a) of this sub-
17 section:

18 “(A) Is incapable of surviving safely in the community without treatment;
19 and

20 “(B) Requires treatment to prevent a deterioration in the person’s condi-
21 tion that will predictably result in the person becoming a person with mental
22 illness.

1 “(3) In determining whether to issue the order under subsection (2) of this
2 section, the court shall consider, but is not limited to considering, the fol-
3 lowing factors:

4 “(a) The person’s ability to access finances in order to get food or medi-
5 cine.

6 “(b) The person’s ability to obtain treatment for the person’s medical
7 condition.

8 “(c) The person’s ability to access necessary resources in the community
9 without assistance.

10 “(d) The degree to which there are risks to the person’s safety.

11 “(e) The likelihood that the person will decompensate without immediate
12 care or treatment.

13 “(f) The person’s previous attempts to inflict physical injury on self or
14 others.

15 “(g) The person’s history of mental health treatment in the community.

16 “(h) The person’s patterns of decompensation in the past.

17 “(i) The person’s risk of being victimized or harmed by others.

18 “(j) The person’s access to the means to inflict harm on self or others.

19 “(4) The community mental health program director may recommend to
20 the court a treatment plan for a person participating in assisted outpatient
21 treatment. The court may adopt the plan as recommended or with modifica-
22 tions.

23 “(5) The court retains jurisdiction over the person until the earlier of the
24 end of the period of the assisted outpatient treatment established under ORS
25 426.130 (2) or until the court finds that the person no longer meets the cri-
26 teria in subsection (2) of this section.

27 “(6) This section does not:

28 “(a) Prevent a court from appointing a guardian ad litem to act for the
29 person; or

30 “(b) Require a [county] **community mental health program** to provide

1 treatment or services to, or supervision of, the person:

2 “(A) If the county lacks sufficient funds for such purposes; or

3 “(B) In the case of a county that has declined to operate or contract
4 for a community mental health program, if the public agency or pri-
5 vate corporation that contracts with the Oregon Health Authority to
6 provide the program, as described in ORS 430.640, lacks sufficient
7 funds for such purposes.”.

8 On page 3, delete lines 25 through 45.

9 On page 4, delete lines 1 through 43 and insert:

10 “**SECTION 3.** ORS 426.233 is amended to read:

11 “426.233. (1)(a) A community mental health program director operating
12 under ORS 430.610 to 430.695 or a designee of the director[, *under authori-*
13 *zation of a county governing body,*] may take one of the actions listed in
14 paragraph (b) of this subsection when the community mental health program
15 director or designee has probable cause to believe a person:

16 “(A) Is dangerous to self or to any other person and is in need of imme-
17 diate care, custody or treatment for mental illness; or

18 “(B)(i) Is a person with mental illness placed on conditional release under
19 ORS 426.125, outpatient commitment under ORS 426.127 or trial visit under
20 ORS 426.273; and

21 “(ii) Is dangerous to self or to any other person or is unable to provide
22 for basic personal needs and is not receiving the care that is necessary for
23 health and safety and is in need of immediate care, custody or treatment for
24 mental illness.

25 “(b) The community mental health program director or designee under the
26 circumstances set out in paragraph (a) of this subsection may:

27 “(A) Notify a peace officer to take the person into custody and direct the
28 officer to remove the person to a hospital or nonhospital facility approved
29 by the Oregon Health Authority;

30 “(B) Authorize involuntary admission of, or, if already admitted, cause to

1 be involuntarily retained in a nonhospital facility approved by the authority,
2 a person approved for care or treatment at a nonhospital facility by a phy-
3 sician under ORS 426.232;

4 “(C) Notify an individual authorized under subsection (3) of this section
5 to take the person into custody and direct the authorized individual to re-
6 move the person in custody to a hospital or nonhospital facility approved by
7 the authority;

8 “(D) Direct an individual authorized under subsection (3) of this section
9 to transport a person in custody from a hospital or a nonhospital facility
10 approved by the authority to another hospital or nonhospital facility ap-
11 proved by the authority as provided under ORS 426.235; or

12 “(E) Direct an individual authorized under subsection (3) of this section
13 to transport a person in custody from a facility approved by the authority
14 to another facility approved by the authority as provided under ORS 426.060.

15 “(2) A designee under subsection (1) of this section must [*be recommended*
16 *by the community mental health program director,*] meet the standards estab-
17 lished by rule of the authority and be approved by the [*county governing*
18 *body*] **community mental health program director** before assuming the
19 authority permitted under subsection (1) of this section.

20 “(3) The [*county governing body may, upon recommendation by the*] com-
21 munity mental health program director[,] **may** authorize any individual to
22 provide custody and secure transportation services for a person in custody
23 under ORS 426.228. In authorizing an individual under this subsection, the
24 [*county governing body*] **community mental health program director** shall
25 grant the individual the authority to do the following:

26 “(a) Accept custody from a peace officer of a person in custody under ORS
27 426.228;

28 “(b) Take custody of a person upon notification by the community mental
29 health program director under the provisions of this section;

30 “(c) Remove a person in custody to an approved hospital or nonhospital

1 facility as directed by the community mental health program director;

2 “(d) Transfer a person in custody to another individual authorized under
3 this subsection or a peace officer;

4 “(e) Transfer a person in custody from a hospital or nonhospital facility
5 to another hospital facility or nonhospital facility when directed to do so by
6 the community mental health program director; and

7 “(f) Retain a person in custody at the approved hospital or nonhospital
8 facility until a physician makes a determination under ORS 426.232.

9 “(4) An individual authorized under subsection (3) of this section must
10 [*be recommended by the community mental health program director,*] meet the
11 standards established by rule of the authority and be approved by the [*gov-*
12 *erning body*] **community mental health program director** before assuming
13 the authority granted under this section.

14 “(5) The costs of transporting a person under ORS 426.060, 426.228 or
15 426.235 by an individual authorized under subsection (3) of this section shall
16 be the responsibility of the [*county whose peace officer or community mental*
17 *health program director directs the authorized individual*] **community men-**
18 **tal health program in the county in which the authorized individual**
19 **is directed by a peace officer or a community mental health program**
20 **director** to take custody of a person and to transport the person to a facility
21 approved by the authority, but the [*county*] **community mental health**
22 **program** shall not be responsible for costs that exceed the amount provided
23 by the state for that transportation. An individual authorized to act under
24 subsection (3) of this section shall charge the cost of emergency medical
25 transportation to, and collect that cost from, the person, third party payers
26 or other legally or financially responsible individuals or entities in the same
27 manner that costs for the transportation of other persons are charged and
28 collected.”.

29 On page 5, line 8, after “is” insert “not”.

30 On page 6, delete lines 34 through 38.

1 In line 39, delete “7” and insert “6”.

2 On page 7, delete lines 6 through 39 and insert:

3 **“SECTION 7.** ORS 426.310 is amended to read:

4 “426.310. (1) If a person with mental illness is a resident of some other
5 county in this state, the county making the commitment shall be reimbursed
6 by the county of which the person is a resident. All reasonable and actual
7 expenses incurred and paid by the county by reason of the care, custody,
8 treatment, investigation, examination and commitment hearing shall, upon
9 presentation of a copy of the order of the judge making the examination and
10 commitment, together with a properly itemized and certified claim covering
11 the expense, be promptly paid to the county by the county of which the
12 person was a resident. The expenses reimbursed under this subsection shall
13 include any expenses incurred to pay for representation of the state’s interest
14 under ORS 426.100 and 426.250.

15 “(2) If a person alleged to have a mental illness is a resident of some
16 other county in this state, a county attempting a commitment shall be re-
17 imbursement by the county of which the person is a resident, as defined in ORS
18 426.241, for all actual, reasonable expenses incurred and paid by the county
19 attempting commitment by reason of the care, custody, treatment, investi-
20 gation, examination and commitment hearing. The expenses reimbursed un-
21 der this subsection shall include any expenses incurred to pay for
22 representation of the state’s interest under ORS 426.100 and 426.250.

23 **“(3) In the case of a county that declines to operate or contract for
24 a community mental health program, the public agency or private
25 corporation that contracts with the Oregon Health Authority to pro-
26 vide the program, as described in ORS 430.640, is responsible for re-
27 imbursement a county for the costs incurred by the county in the care,
28 custody, treatment, investigation and examination of the person.**

29 **“SECTION 8.** ORS 430.197 is amended to read:

30 “430.197. The Mental Health Services Fund is established in the State

1 Treasury, separate and distinct from the General Fund. The Mental Health
2 Services Fund comprises moneys collected or received by the Oregon Health
3 Authority, the Department of Human Services and the Department of Cor-
4 rections under ORS 179.640, 426.241 and 430.165. The moneys in the fund are
5 continuously appropriated to the Oregon Health Authority, the Department
6 of Human Services and the Department of Corrections for the purposes of
7 paying the costs of:

8 “(1) Services provided to a person in a state institution, as defined in ORS
9 179.610;

10 “(2) Emergency psychiatric care, custody and treatment paid [*for by a*
11 *county*] under ORS 426.241;

12 “(3) Emergency care, custody or treatment provided to a person admitted
13 to or detained in a state mental hospital or nonhospital facility under ORS
14 426.070, 426.140, 426.180 to 426.210, 426.228, 426.232 or 426.233; and

15 “(4) Programs operating under ORS 430.265, 430.306 to 430.375, 430.405,
16 430.415, 430.850 to 430.880, 813.500 and 813.510.”.

17 In line 40, delete “10” and insert “9” and delete “426.255,”.

18 In line 41, delete “9” and insert “8”.

19 In line 43, delete “11” and insert “10”.

20
